

**CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
June 21, 2005 Agenda
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard**

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

Conference with Legal Counsel – Anticipated Litigation – Initiation of litigation pursuant to subdivision (c) of California Government Code Section 54956.9 (1 case) as plaintiff.

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. APPROVAL OF MINUTES (June 7, 2005)

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Special Presentation

Santa Clara County Realtors Homeworks Essay Contest, 2nd place winner Amanda Garcia, 12th grader at Milpitas High School to receive a cash award of \$750.00.

Proclamation

Amateur Radio Week, June 18-26, 2005

Certificate of Appreciation

The Beverly Heritage Hotel for sponsoring the “A Taste of Milpitas”

Certificate of Appointment

- David Sandhu, Parks, Recreation & Cultural Resources Commission, Alternate No. 1
- Satish Kumar Bansal, Telecommunications Advisory Commission, Alternate No. 1

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight’s agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. ANNOUNCEMENT OF CONFLICT OF INTEREST

XI. APPROVAL OF AGENDA

XII. CONSENT CALENDAR (Items with Asterisks)

XIII. PUBLIC HEARINGS

- 1. Approve Fairfield Midtown Vesting Major Tentative Tract Map (MA2005-4) Application To Create Two Parcels, Located at the Corner of Abel, Main, And Great Mall Parkway and Create 481 Condominium Units (APN'S: 086-12-015, 016, 020) Zoned R4-TOD (Multi Family Very High Density With A Transit Oriented Overlay). Applicant: Fairfield Residential LLC (Staff Contact: Troy Fujimoto, 586-3287)**
- 2. Adopt Resolution Approving Annual Engineer's Report and The Levying of Assessment: Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Program 9474 (Staff Contact: Mehdi Khaila, 586-3328)**
- 3. Adopt Resolution Approving Annual Engineer's Report and The Levying of Assessment: Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Program 9489 (Staff Contact: Mehdi Khaila, 586-3328)**
- 4. Introduction Of Ordinance Adopting Local Electrical Code Amendments In Conjunction With State Adoption Of The 2004 Edition Of The California Electrical Code, Staff Contact: Keyvan Irannejad, 586-3244)**

XIV. UNFINISHED BUSINESS (NONE)

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (June 7, 2005)

RA4. Approval of Agenda

RA5. Adopt Resolution Of Necessity To Acquire Properties (APN Nos. 028-24-014, 015, 020 And 026) For The Milpitas Library. (Staff Contact: Richard Pio Roda, 586-3040)

***RA6. Approve Policy Amendments to the City of Milpitas Redevelopment Agency Affordable Housing Documents (Staff Contact: Felix Reliford, 586-3071)**

***RA7. Authorize the City Manager to Execute an Agreement Amendment for Consultant Services: Swinerton Management & Consulting; Project Nos. 8134, 8154, 8157 and 8165 (Staff contact: Mark Rogge, 586-3403)**

RA8. Agency Adjournment

XVI. REPORTS OF OFFICERS AND BOARDS (NONE)

XVII. NEW BUSINESS

- 5. Farmer's Market Status Report. (Staff Contact: Cindy Maxwell, 586-3282)**
- 6. Approve Supplemental Funding for Library Monday Hours (Staff Contact: Cindy Maxwell, 586-3282)**

- * 7. **Approve S-Zone Approval Amendment (SA2005-40) For A 363 Square Foot Building Addition At 2018 Wellington Drive (Hillside). Applicant: Sullivan Santos. (Staff Contact: Troy Fujimoto, 586-3287)**
- * 8. **Approve a Budget Change Form to Release Payment for the Expenses, Contingent on the Quarterly Reimbursement from the VTA, Associated with a VTA Transportation Demand Management Incentive Program Grant (Staff Contact: J. Nadal, 586-3291)**
- * 9. **Library Operation Alternatives: Note Receipt And File Staff Report: Approve Request For Proposal And Budget Appropriation For Study Of Library Operation Alternatives (Staff Contact: Cindy Maxwell, 586-3282)**
- * 10. **Approve Marquee Request: Linda Arbaugh, Milpitas Community Library. (Staff Contact: Lisa Ciardella, 586-3206)**
- * 11. **Approve the Budget Transfer of \$750.00 from Holding Account HA 1377-2500 to 100-163-4221 to Reorder Child Abuse Prevention Magnets (Staff Contact: Toby Librande, 586-3203)**
- * 12. **Accept \$1200 From Wal-Mart Safe Neighborhood Heroes Grant (Staff Contact: Dennis Graham, 586-2502)**

XVIII. ORDINANCES

- 13. **Introduce an Ordinance 139.3 Granting a Franchise to Comcast of California/Colorado/Florida/Oregon, Inc., to Construct, Operate, and Maintain a Cable System in the City of Milpitas, California Setting Forth Conditions Accompanying the Grant of the Franchise; Providing for Regulation and Use of the System and the Public Rights-of-Way and Prescribing Penalties for the Violation of the Provisions Herein. (Staff Contact: Bill Marion, 586-2701)**

XIX. RESOLUTIONS

- * 14. **Adopt Resolutions: Acceptance of Two Grants Approved by the State Office of Traffic Safety for Vehicle Speed Feedback Signs and for an Automated Collision & Analysis Tracking System with GIS Capabilities. (Staff Contact: Jaime Rodriguez, 586-3335)**
- * 15. **Adopt Resolution of Local Support: South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug De Vries, 586-3313)**
- * 16. **Adopt A Resolution To Release Unclaimed Checks Per Sop #26-1 (Staff Contact: Dante D. Ong, 586-3132)**

XX. BIDS AND CONTRACTS

- * 17. **Approve Payment Of Annual Hardware Support and Maintenance Fee To Data911 For the Mobile Computing Hardware Installed In Police Vehicles Through June 30, 2006. (Staff Contact: Terry Medina, 586-2703)**
- * 18. **Award Contract to American Baseline Company to Provide Surveying Services and Prepare Legal Description for Waterline to Minnis Tank (Staff Contact: Mehdi Khaila, 586-3327)**

- * 19. **Approve Payment Of Annual Hardware Support And Maintenance Fee To TriTech Software Systems For The Stratus Server That Supports The Computer Aided Dispatch System Through March 31, 2006. (Staff Contact: Terry Medina, 586-2703)**
- * 20. **Approval of Payment to the Milpitas Unified School District – Use of Milpitas High School Swimming Pools, Summer 2005 (Staff Contact: Aaron Bueno, 586-3226)**
- * 21. **Authorize the City Manager to Execute an Agreement Amendment: Raines, Melton & Carella, Inc, Sewer Deficiency and Structural Correction Program (Project No. 6073) (Staff Contact: Doug DeVries, 586-3313)**
- * 22. **Authorize the City Engineer to Execute a Contract Change Order: 2005 Street Resurfacing Project, Project No. 4223, (Staff Contact: Doug De Vries, 586-3313)**
- * 23. **Award Bid For Storage Containers. Project 6079 (Staff Contact: Chris Schroeder, 586-3161)**
- * 24. **Award Bid For UPS Batteries(Staff Contact: Chris Schroeder, 586-3161)**
- * 25. **Authorize Issuance of Purchase Order: Constructware Solutions Group License Renewal, Project Nos. 8154 and 8162 (Staff Contact: Mark Rogge, 586-3403)**
- * 26. **Approve Renewal for Excess Workers' Compensation Insurance (Staff Contact: Carmen Valdez, 586-3086)**
- * 27. **Approve Specifications and Authorize the Advertisement for Bid Proposals: Police Evidence Freezer, Project No. 8159. (Staff Contact: Jorge Bermudez, 586-3404)**
- * 28. **Approve Right of Way Use Agreement with NextG Networks, Inc., Project 2413 (Staff Contact: Mehdi Khaila, 586-3328)**
- * 29. **Authorize City Manager to Execute Contract Agreement with Wildlife Center of Silicon Valley for Animal Control Services. (Staff Contact: Felix Reliford, 586-3071)**
- * 30. **Authorize the City Manager to Execute The Agreement Amendment: Group 4 Architecture Research + Planning, Inc., Library Project No. 8162, (Staff Contact: Mark Rogge, 586-3403)**
- * 31. **Approve Specifications and Authorize the Advertisement for Bid Proposals: Tot Lot Sunshade, Project No. 8102. (Staff Contact: Jorge Bermudez, 586-3404)**
- * 32. **Approve Right of Way Agreement with California Department of Water Resources to Operate and Maintain its Transmission Water Line within Piedmont Road: Project No. 3174 (Staff Contact: Mehdi Khaila, 586-3328)**

XXI. CLAIMS AND DEMANDS

- * 33. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JULY 5, 2005, AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE,

CONTACT THE OPEN GOVERNMENT COMMISSION

at the City Attorney's office at Milpitas City Hall

455 E. Calaveras Boulevard

Milpitas, CA 95035

E-mail: rpioroda@ci.milpitas.ca.gov

Fax: 408-586-3030

Phone: 408-586-3000

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

The City is currently accepting applications for the following commissions:

Economic Development Commission

Open Government Commission.

Applications are available online at www.ci.milpitas.ca.gov or in the Agenda rack outside the Council Chambers. Contact the City Clerk's Office (586-3002) for information.

CITY OF MILPITAS
Agenda Reports
Milpitas City Council Meeting
June 21, 2005
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard

XIII. PUBLIC HEARINGS

- 1. Approve Fairfield Midtown Vesting Major Tentative Tract Map (MA2005-4) Application To Create Two Parcels, Located at the Corner of Abel, Main, And Great Mall Parkway and Create 481 Condominium Units (APN'S: 086-12-015, 016, 020) Zoned R4-TOD (Multi Family Very High Density With A Transit Oriented Overlay). Applicant: Fairfield Residential LLC (Staff Contact: Troy Fujimoto, 586-3287)**

Background: The applicant is requesting a continuance of this item to the July 5, 2005 City Council meeting to continue to work out outstanding issues and to allow additional time to finalize the related Owner Participation Agreement.

Recommendation: Keep the public hearing open and continue the project to the July 5, 2005 City Council meeting.

- 2. Adopt Resolution Approving Annual Engineer's Report and The Levying of Assessment: Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Program 9474 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: On June 7, 2005, the City Council adopted Resolution of Intention No. 7528 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 95-1. District provides for the servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the Gateway feature on Ranch Drive. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district.

The total assessment for the district in the Annual Engineer's Report is \$257,523 for the 2005-2006 fiscal year. The assessment for fiscal year 2005-2006 is within the previously approved range of assessments and includes the application of the approved annual Consumer Price Index (CPI) escalation.

Recommendation:

1. Open the public hearing, receive any written protests, and hear testimony.
 2. Close the public hearing.
 3. Adopt Resolution approving Annual Engineer's Report, Confirm Diagram and assessment and ordering levy of assessments for fiscal year 2005-2006, for Landscaping and Lighting Maintenance Assessment District No. 95-1.
- 3. Adopt Resolution Approving Annual Engineer's Report and The Levying of Assessment: Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Program 9489 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: On June 7, 2005, the City Council adopted Resolution of Intention No. 7529 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 98-1. The District provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential

subdivision. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district.

The total assessment for the district in the Annual Engineer's Report is \$32,436.04 for the 2005-2006 fiscal year. The assessment for fiscal year 2005-2006 is within the previously approved range of assessments and includes the application of the approved annual Consumer Price Index (CPI) escalation.

Recommendation:

1. Open the public hearing, receive any written protests, and hear testimony.
2. Close the public hearing.
3. Adopt Resolution approving Annual Engineer's Report, Confirm Diagram and assessment and ordering levy of assessments for fiscal year 2005-2006, for Landscaping and Lighting Maintenance Assessment District No. 98-1.

4. Introduction Of Ordinance Adopting Local Electrical Code Amendments In Conjunction With State Adoption Of The 2004 Edition Of The California Electrical Code, Staff Contact: Keyvan Irannejad, (586-3244)

Background: California Electrical Code: The State Building Standards Commission (SBSC) periodically adopts new state model building codes that apply to all cities and counties in California. The commission recently adopted the 2004 Edition of the California Electrical Code that will become effective on August 1, 2005. Local jurisdictions are permitted to make amendments to model codes that are reasonably necessary due to local climatic, geological or topographical conditions. The City of Milpitas Building Inspection Division has participated with several cities and counties in the East Bay, Peninsula and Monterey Chapters of the International Code Council (ICC), in the preparation of common code amendments to the 2004 Edition of the California Electrical Code. These amendments are found in this Electrical Code Ordinance.

The most significant amendments under proposal relate to the requirement for all new electrical services to be installed underground and for electrical disconnecting means to buildings to be at readily accessible locations for quick and safe power turn-off in emergency situations.

Recommendation:

1. Waive the reading beyond the title.
2. Introduce Ordinance Number 65.134 enacted as Chapter 6, Title II of the Milpitas Municipal Code to adopt and revise local amendments to the 2004 Edition of the California Electrical Code.
3. Adopt a resolution citing findings of fact providing reasons for amendments to the California Electrical Code.

XIV. UNFINISHED BUSINESS (NONE)

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (June 7, 2005)

RA4. Approval of Agenda

RA5. Adopt Resolution Of Necessity To Acquire Properties (APN Nos. 028-24-014, 015, 020 And 026) For The Milpitas Library. (Staff Contact: Richard Pio Roda, 586-3040)

Background: The Redevelopment Agency of the City of Milpitas (“Agency”) has been negotiating to purchase certain industrial properties located on Winsor Avenue and N. Main Street (Assessor’s Parcel No.’s 028-24-014, 015, 020 and 026, the “subject properties”), which are owned by Dorothy A. Winsor and Ruth A. Winsor and administered by Robert Winsor, Executor of the Dorothy A. and Ruth A. Winsor Estate.

The Agency retained a qualified appraiser, and pursuant to California Government Code Section 7267.2, on May 26, 2005 the Agency made written offers to purchase the property interests for their full-appraised value, subject to certain conditions, for a total of \$1,580,000.00. The Agency also offered assistance to the tenants for relocation. Three of the five tenants on the property accepted relocation assistance with a fourth expected to accept. The Agency is still in negotiations with the fifth tenant. The existing improvements on the property are 3 metal industrial buildings totaling 5,980 square feet and a paved parking area. The tenant businesses were two towing companies, an HVAC company, a machine shop and a transmission repair company.

The Agency seeks to acquire the subject properties for the construction of the North Main Street Development Project. An Environmental Impact Report was done for the Project. California Eminent Domain Law authorizes the Agency to exercise its eminent domain authority to acquire the subject properties. (California Health and Safety Code Section 33391; and Code of Civil Procedure Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, and 1240.610). In order to commence eminent domain proceedings, the Agency must adopt a Resolution of Necessity.

Staff recommends that the Agency adopt a Resolution of Necessity authorizing the Agency’s legal counsel to file an eminent domain action. If the Agency is able to successfully negotiate a purchase of the subject properties shortly following this hearing, the filing of the eminent domain action may not be necessary. Moreover, the filing of this action will not affect the Agency’s ability to continue to negotiate a purchase price with the owner of the subject properties.

Further, to proceed with the acquisition of the subject properties, Staff recommends that the Agency adopt a Resolution of Necessity to commence eminent domain proceedings. In order to do so, the Agency must make the following findings under California Code of Civil Procedure sections 1245.220 and 1245.230(c):

- (1) The public interest and necessity require the proposed project;
- (2) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (3) That the property described in the resolution is necessary for the proposed project; and
- (4) That the offer required by Government Code section 7267.2 has been made to the owners of record.

A Resolution of Necessity must be adopted at a public hearing by a vote of two-thirds of all the members of the Agency (i.e. 4 votes) (Code of Civil Procedure section 1245.240.). Pursuant to California Code of Civil Procedure Section 1245.235, on June 3, 2005, notice of this hearing was sent to the property owner.

Recommendation: Adopt Resolution of Necessity to commence eminent domain proceedings.

***RA6. Approve Policy Amendments to the City of Milpitas Redevelopment Agency Affordable Housing Documents (Staff Contact: Felix Reliford, 586-3071)**

Background: Over the past month, staff has been working with the State of California Housing Finance Agency (CALHFA) to obtain greater access to Proposition 46 Funds-a \$2.1 billion housing bond that was approved by the California voters in 2002. The additional housing funds offered by CALHFA would allow greater opportunities to Milpitas residents and the City to access a variety of funding sources for future rental and homeownership housing projects.

Upon reviewing the City's affordable housing property value restrictions, resale agreement and option to purchase, as well as other legal documents for compliance with receiving state funds, CALHFA approved the provisions of the City's affordable housing below market rate program. However, with regards to the Resale Agreement, CALHFA has recommended that the City/Agency amend its resale agreement, which currently may limit Milpitas residents' housing opportunities. The existing affordable housing provision, which requires amending, states:

"Maximum housing costs, including principal payments, interest, property taxes, homeowners insurance, homeowners dues and mortgage insurance, shall not exceed 30 percent of qualifying income. Qualifying income shall include income of all household members over the age of 18 years of age."

Given the California housing market, specifically, the Bay Area where the average price of a single-family home just recently exceeded \$600,000 (and closer to \$700,000 in Santa Clara County), this provision in the affordable housing document, which requires housing costs not to exceed 30% of qualifying income, limits a substantially large number of potential affordable housing residents. Most of the State of California housing programs allow up to 45 percent of qualifying income, taking into consideration California housing market factors. Most Californians pay close to 40 percent of their household income for housing.

The City's affordable housing policy provides financially assisted very low and low-income households with silent second down payment assistance loans for homeownership. Based on the typical level of financial assistance from the Redevelopment Agency for very low-income households (ex: \$98,000 in the Parc Place development), this would still allow most very low-income households to comply with the 30 percent qualifying income limit. However, for low and moderate-income households, in which the affordable units are more expensive (and for moderate-income households, in which no down payment assistance from the Agency is provided), they are limited by the 30 percent qualifying income existing policy in the resale agreement.

This matter was also brought to staff's attention by the City's lender (DHI Mortgage Company) for the Parc Place project. The lender expressed concerns that a prospective future tenant could be pre-approved for a below market rate unit with a broker or outside lender using a higher income guideline than the 30 percent and could potentially be turned away by our preferred lender given the qualifying income restriction.

As required by redevelopment law, HUD's income guidelines are used to determine qualifying income. Based on the proposed amendments, future low income tenants that received financial assistance from the Redevelopment Agency would be limited to 35 percent of the qualifying income. The moderate income household would be limited to 45% of qualifying income. Several other minor amendments (non-policy related) are also included in the proposed revision to the documents.

Staff is recommending that the amendments to the Milpitas Redevelopment Agency affordable housing legal documents be revised to reflect these changes recommended by CALHFA, to

increase financial resources and housing opportunities for Milpitas residents. Legal staff has made the appropriate amendments to the affordable housing documents. Included in the Council/Agency agenda packet is a copy of the amendments to the City's affordable housing documents.

Recommendation: Approve the recommended policy amendments to the Redevelopment Agency's affordable housing documents to comply with CALHFA guidelines for financial assistance.

***RA7. Authorize the City Manager to Execute an Agreement Amendment for Consultant Services: Swinerton Management & Consulting; Project Nos. 8134, 8154, 8157 and 8165 (Staff contact: Mark Rogge , 596-3403)**

Background: On February 17, 2004, the City Council awarded a consultant contract to Swinerton Management & Consulting (SMCI) to provide professional project management services as needed to assist staff in the completion of new projects related to the, KB Homes development, including the County parcels surrounding the Elmwood facility, as well as several Capital Improvement Program (CIP) projects for the improvement of Abel Street. Their contract was amended on May 18, 2004 to include project management services for the library and Midtown related projects including Main Street improvement, and the parking garages. SMCI has reached the end of the term of services specified in the agreement and they have performed satisfactorily.

Staff now recommends that the agreement with SMCI be amended to allow them to continue to perform these project management and coordination services for the library and Midtown related projects. Staff also recommends that SMCI perform these services on additional projects including new Senior Center, County Health Center, Main Sewage Pump Station Improvement, as well as assisting staff with several private development projects including the Senior Housing project. Specific SMCI tasks include master project scheduling of Capital Improvement and private development projects related to the Midtown, tracking development fees, providing plan and specification constructability reviews, and project document control. Staff has negotiated a scope and fee for these services not to exceed \$200,000, which is considered reasonable for the work. There are sufficient funds in the project budgets to cover this additional expense.

Recommendation: Authorize the City Manager to execute the agreement amendment with Swinerton Management & Consulting in the amount of \$200,000, subject to approval as to form by the City Attorney.

RA8. Agency Adjournment

XVI. REPORTS OF OFFICERS AND BOARDS (NONE)

XVII. NEW BUSINESS

5. Farmer's Market Status Report. (Staff Contact: Cindy Maxwell, 586-3282)

Background: The Milpitas Farmer's Market currently operates in the Town Center parking lot every Thursday and Sunday mornings. Because of the impending construction related to the redevelopment of the Town Center, the Market's last day to operate in the Town Center will be July 3. Staff is working with the Farmer's Market management to help find a new location for their operation. Staff will provide a status report at the Council meeting.

Recommendation: Receive the staff report and provide direction if appropriate.

6. **Approve Supplemental Funding for Library Monday Hours (Staff Contact: Cindy Maxwell, 586-3282)**

Background: In October 2004, the Santa Clara County Library District (JPA) closed all library operations on Mondays due to budget constraints. The JPA's proposed budget for the next fiscal year (FY 2005-06) indicates that JPA libraries will continue to remain closed on Mondays. The hours will be:

Sunday	12 noon to 6 p.m.	Thursday	10 a.m. to 9 p.m.
Monday	Closed	Friday	10 a.m. to 6 p.m.
Tuesday	12 noon to 9 p.m.	Saturday	10 a.m. to 6 p.m.
Wednesday	10 a.m. to 9 p.m.		

Per the Council's request, the JPA calculated the cost to the City to fund additional hours so the Library can remain open on Mondays. The cost for four options are calculated in the table below. The first three options are for Mondays. The fourth option is to add an additional two hours on Tuesday so the Library consistently opens at 10 a.m. on weekdays and Saturday. If the City Council authorizes the additional funding, the new Monday hours would begin August 29, rather than July 11, to allow the JPA time to hire appropriate staff and to inform the public of the new schedule.

Option No.	Description	Cost For August 29, 2005 to June 24, 2006	Annual Cost
A	Monday 8 Hours 12 noon - 8:00 p.m.	\$181,877	\$215,341
B	Monday 9 Hours 12 noon - 9 p.m.	\$204,826	\$242,631
C	Monday 11 Hours 10 a.m. - 9 p.m.	\$261,950	\$310,562
D	<u>Tuesday</u> 2 Additional Hours 10 a.m. - 12 noon	\$48,907	\$68,734

Funds to supplement library operating hours are available in the Library Fund whose revenues originate from the 2% Transient Occupancy Tax authorized by voters in 2000.

When the Milpitas Library was originally closed on Mondays in October 2004, the City provided an additional four hours each Monday at the Milpitas High School Library to provide relief for students and the public.

Recommendation:

- Authorize funding library services for eight hours every Monday, 12:00 to 8:00 p.m., at the Milpitas Library from August 29, 2005 through June 26, 2006.
- Approve a budget appropriation for \$181,877 from the Library Fund to cover the cost of Monday hours.

- Direct staff to cancel supplemental funding for additional public hours at the Milpitas High School Library for FY 2005-06.

* **7. Approve S-Zone Approval Amendment (SA2005-40) For A 363 Square Foot Building Addition At 2018 Wellington Drive (Hillside). Applicant: Sullivan Santos. (Staff Contact: Troy Fujimoto, 586-3287)**

Background: At its June 8, 2005 meeting, the Planning Commission voted to recommend approval of a S-Zone Approval Amendment (SA2005-40) and associated conditions of approval for a 363 square foot building addition at the rear of the existing single family home at 2018 Wellington Drive. The addition will expand the existing library and will not require any grading.

The reasons for the staff recommendation and Planning Commission's action were that:

1. The building addition will not impact views because it will be located at the rear of the building and will not be taller than the existing home.
2. The maximum allowable hillside impervious surface will not be exceeded as a result of the new building addition.
3. The maximum allowable home size will not be exceeded as a result of the new building addition.

More detail is provided in the staff report prepared for the Planning Commission enclosed in the Council's agenda packet.

Recommendation: Approve S-Zone Approval Amendment (SA2005-40), a request to construct a 363 square foot building addition at 2018 Wellington Drive, based on the attached findings and special conditions, dated June 21, 2005, included in the Council's agenda materials.

* **8. Approve a Budget Change Form to Release Payment for the Expenses, Contingent on the Quarterly Reimbursement from the VTA, Associated with a VTA Transportation Demand Management Incentive Program Grant (Staff Contact: J. Nadal, 586-3291)**

Background: The City of Milpitas, in partnership with the Santa Clara Valley Transportation Authority (VTA), received a Transportation For Clean Air (TFCA) grant in the amount of \$12,000. Grant funds will be spent, according to the attached proposal, to implement a Transportation Demand Management (TDM) program for the Escuela Drive schools- Pomeroy Elementary, Russell Middle, and Milpitas High. The grant funding will provide incentives that will promote transit, walking, bicycling and carpooling. This program will assist in alleviating traffic congestion during the morning and afternoon peak school hours. The complete grant proposal is included in the Council's agenda packet.

Recommendation: Approve a Budget Change Form to release payment for the expenses, contingent on the quarterly reimbursement from the VTA

* **9. Library Operation Alternatives: Note Receipt And File Staff Report: Approve Request For Proposal And Budget Appropriation For Study Of Library Operation Alternatives (Staff Contact: Cindy Maxwell, 586-3282)**

Background: The City Council requested staff prepare a report on library operations and on alternatives to the current operating arrangement with the Santa Clara County Library Joint Powers Authority (JPA). In a memo dated February 19, 2005, staff outlined the contents of the requested report and recommended that further financial and operation analysis be obtained from outside professionals with expertise in library funding, costs, and operations.

The staff report updates a previous report in 2003 on library operations. It describes the JPA's organization, budget and funding formula. It also compares the Milpitas library to four other

similar sized libraries: Cerritos, Mountain View, Pleasanton and Sunnyvale. The report identifies major issues associated with the library as (1) funding uncertainties, (2) local control, and (3) community support.

A Request for Proposal (RFP) and project cost was prepared in consultation with other library professionals and consultants. The project's purpose is to provide information the City Council can use to evaluate current operations and help determine if the Milpitas Library should operate under a different governing structure. The scope of services includes a review of current operations, identification of alternative operating models, and analysis of major issues. The alternatives will include revenue and expenditure projections for short term (five years) and long term (ten years), evaluation of benefits and liabilities, and consideration of need and feasibility for related services such as literacy, bookmobile, and facility scheduling.

Recommendation: Note receipt and file staff report. Approve Request for Proposal and Budget Appropriation for \$60,000 to engage the services of a library consultant to conduct a study of alternatives for library operations.

- * 10. **Approve Marquee Request: Linda Arbaugh, Milpitas Community Library. (Staff Contact: Lisa Ciardella, 586-3206)**

Background: Linda Arbaugh, Community Librarian, has requested to use the City of Milpitas marquee as follows:

Marquee Request (to be displayed June 22-June 30)

Library Summer
Reading Club
Sign-ups start
June 21 262-1171

Marquee Request (to be displayed July 9-July 16)

July 16 Book Sale
Milpitas Library
Computer and Fiction

Marquee Request (to be displayed July 16-July 24)

Free Library Event
Cowboy Jazz
July 23, 5:00 pm
Bring a picnic!
The City Council pursuant to Resolution No. 6310, Facility Use Rules and Regulations must approve all exceptions to the marquee policy.

Recommendation: Approve Linda Arbaugh's request to use marquee June 22 - June 30, July 9 - July 16, and July 16 - July 24.

- * 11. **Approve the Budget Transfer of \$750.00 from Holding Account HA 1377-2500 to 100-163-4221 to Reorder Child Abuse Prevention Magnets (Staff Contact: Toby Librande, 586-3203)**

Background: Staff applied for a grant of \$750.00 from the *Lucile Packard Foundation for Children's Health* to be used to reorder Child Abuse Prevention magnets. Each year, during the month of April, the City of Milpitas actively strives to bring attention to the complex topic of child abuse prevention. Our outreach activities include: City Council proclamation designating April as National Child Abuse Prevention Month, child abuse prevention tips, televised City Council presentation of the Children's Welfare League of America Children's Memorial Flag and

public display of this flag for the month, a paragraph on the City website home page, and a newspaper article in the local newspaper, The Milpitas Post. For April 2005, we extended our program to include printing and distributing 10,000 magnets highlighting the five Rs (child abuse prevention tips) and the local child abuse reporting hotline phone number. The magnets were distributed to Milpitas families via child care programs, family child care providers, and the Community Center. Milpitas Unified School District will distribute the magnets to all of the school children in Milpitas in the “first day packets” sent home in the early fall. To accommodate the entire student population, a 2,000-count reorder of magnets is necessary. The Lucile Packard Foundation for Children’s Health generously provided the additional funding to finance the balance of the reorder.

Recommendation: Approve budget transfer of \$750.00 from holding account HA 1377-2500 to 100-163-4221 to purchase the 2,000-count reorder of Child Abuse Prevention Magnets.

- * 12. **Accept \$1200 From Wal-Mart Safe Neighborhood Heroes Grant (Staff Contact: Dennis Graham, 586-2502)**

Background: The Wal-Mart Foundation, through Milpitas Wal-Mart Store #2119, has donated a check in the amount of \$1,200 to the Milpitas Police Department under the auspices of its “Safe Neighborhood Heroes” grant program. There are no specific requirements concerning how these funds are to be expended, except that they are to aid law enforcement in supporting safe neighborhoods and communities.

The Police Department is in receipt of this check, and Command staff recommends that the funds be used to support the City of Milpitas National Night Out activities in August of 2005.

Recommendation: Authorize the Police Department to accept these funds in the amount of \$1,200 to support National Night Out.

XVIII. ORDINANCES

13. **Introduce an Ordinance 139.3 Granting a Franchise to Comcast of California/Colorado/Florida/Oregon, Inc., to Construct, Operate, and Maintain a Cable System in the City of Milpitas, California Setting Forth Conditions Accompanying the Grant of the Franchise; Providing for Regulation and Use of the System and the Public Rights-of-Way and Prescribing Penalties for the Violation of the Provisions Herein. (staff Contact: Bill Marion, 586-2701)**

Background: The City granted a cable television franchise in 1983. This franchise has been transferred several times, and is now currently held by Comcast of California/Colorado/Florida/Oregon, Inc. This franchise expired in 2003, but was extended several times by the Council while renewal negotiations were being held. The latest information provided to the City indicates that Comcast has 10,521 subscribers in the City or approximately 61% of the households. Cable franchises and renewals are in large governed by federal law and in particular the Cable Consumer Protection Act of 1992 and the Telecommunications Act of 1996. Prior to the expiration of the franchise, the City initiated a renewal process consistent with this legislation that included a technical review of the cable system, a survey of subscribers, public input and a review of the existing cable ordinance. These efforts resulted in a needs assessment document that was the basis for the franchise renewal negotiations. The accompanying staff report and presentation will highlight the major points of the needs assessment and how the new franchise addresses these needs. The Telecommunications Commission has reviewed the franchise renewal and recommends adoption.

Recommendation:

1. Waive reading beyond the title and;

XIX. RESOLUTIONS

- * **14. Adopt Resolutions: Acceptance of Two Grants Approved by the State Office of Traffic Safety for Vehicle Speed Feedback Signs and for an Automated Collision & Analysis Tracking System with GIS Capabilities. (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: Staff submitted grant proposals for the following two projects to the State Office of Traffic Safety in response to their “call for projects” for their 2005 funding cycle:

1. Vehicle Speed Feedback Signs (Total cost: \$36,800.00)
2. Automated Collision and Analysis Tracking System – GIS (Total cost: \$30,000.00)

The Vehicle Speed Feedback Signs project allow for the installation of four electronic signs near select elementary schools and along select arterials. The signs provide a dynamic display to motorists’ sharing the speed limit and their current speed. These signs have been effective in controlling speed limits.

The Automated Collision & Analysis Tracking System – GIS project will provide traffic engineering with a database system that is linked to the police department’s traffic accident database. This will allow the Traffic Engineer to more readily identify recurring crash patterns and implement pro-active traffic control solutions.

The Office of Traffic Safety requires that these projects are to start no later than October 1, 2005.

Recommendation: Adopt resolutions for the acceptance of two grants approved by the Office of Traffic Safety to install vehicle speed feedback signs and for an automated collision & analysis tracking system with GIS capabilities.

- * **15. Adopt Resolution of Local Support: South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug De Vries, 586-3313)**

Background: Staff is working to secure additional Federal Surface Transportation Program (STP) Funding to improve South Park Victoria Drive between Calaveras Boulevard and Yosemite Drive and between Saratoga and Big Basin Drives. This project will provide pavement improvements for these sections of South Park Victoria Drive. The amounts of available additional STP Funding are \$207,000 for fiscal year 2005/2006. To implement this project, it is necessary to adopt a Resolution of Local Support authorizing the filing of an application for Federal Surface Transportation Program Funding for S. Park Victoria Drive Pavement Rehabilitation and offering the assurance of the City of Milpitas to complete the project.

Recommendation: Adopt Resolution of Local Support.

- * **16. Adopt A Resolution To Release Unclaimed Checks Per Sop #26-1 (Staff Contact: Dante D. Ong, 586-3132)**

Background: According to City of Milpitas’ Standard Operating Procedures 26-1, which conforms with California Government Code Section No. 50055, unclaimed checks of less than \$15, or any amount if the depositor’s name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by the City Council. Attached is a list of unclaimed checks of less than \$15, which remain unclaimed for more than one year. According to City of Milpitas’ Standard Operating Procedures 26-1, which conforms with California

Government Code Section No. 50055, unclaimed checks of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by the City Council. Attached is a list of unclaimed checks of less than \$15, which remain unclaimed for more than one year.

Recommendation: Staff recommends that the Council adopt a resolution to transfer a total of \$ 160.53 unclaimed checks per the attached list to the General Fund in accordance with Standard Operating Procedures 26-1.

XX. BIDS AND CONTRACTS

- * 17. **Approve Payment Of Annual Hardware Support and Maintenance Fee To Data911 For the Mobile Computing Hardware Installed In Police Vehicles Through June 30, 2006. (Staff Contact: Terry Medina, 586-2703)**

Background: In fiscal year 2001/2002, the City of Milpitas implemented mobile computing in its Police vehicles that supports the safety of the City's residents and Police Officers. The system includes mobile computing hardware that was manufactured by Data911 and installed in 30 Police vehicles. Data911 offers an extended hardware warranty for their equipment that provides for the repair or replacement of the equipment in the case of failure.

The mobile computing application is considered essential in the performance of daily Police duties. The equipment that is installed in the Police vehicles must be available 24 hours a day / 7 days a week. The City currently has 1 spare set of equipment that can be used in the case of a hardware failure. During the past 12 months we have replaced numerous keyboards and computer monitors within the Police vehicles. Fortunately, that equipment was covered under the current maintenance warranty and was replaced free of charge to the City. The cost of each unit including all components is in excess of \$8,000. The annual maintenance charge to cover 31 units is \$7,548. Funding for the maintenance warranty has already been approved in the Information Services operational budget for Fiscal Year 2004/05. No additional funding is required for this request.

Approval of the annual hardware support and maintenance fee to Data911 will provide continued support of the mobile computing system hardware installed in the Police vehicles through June 30, 2006.

Recommendation: Authorize the City Manager to approve payment of the annual hardware support and maintenance fee to Data911 through June 30, 2006.

- * 18. **Award Contract to American Baseline Company to Provide Surveying Services and Prepare Legal Description for Waterline to Minnis Tank (Staff Contact: Mehdi Khaila, 586-3327)**

Background: In 1980, the City of Milpitas entered into an agreement with the County for the construction of Minnis Water Tank with its appurtenance water lines on County land within Ed Levin Park. Recently, the City Council approved an agreement with Spring Valley Heights to provide water to their subdivision from this system. County of Santa Clara is requesting that the necessary easements over the Minnis water line system be recorded as part of the water line extension to Spring Valley Heights through Ed Levin Park. Three bids were solicited for the preparation of the legal description with one bid non-responsive.

There are sufficient funds in the City water fund for this appropriation.

- | | |
|------------------------|----------|
| 1) American Baseline | \$7,000. |
| 2) Sandis Humber Jones | \$8,500 |

Recommendation: Award contract to American Baseline Company in the amount of \$7,000.

- * 19. **Approve Payment Of Annual Hardware Support And Maintenance Fee To TriTech Software Systems For The Stratus Server That Supports The Computer Aided Dispatch System Through March 31, 2006. (Staff Contact: Terry Medina, 586-2703)**

Background: On October 21, 2003, City Council approved an agreement with TriTech Software Systems for the provision of hardware, software and implementation services for a new Computer Aided Dispatch (CAD) System. One component of the new CAD system was a high end Stratus server that would serve as the backbone of the new system. The original agreement included the first year of hardware support and maintenance for the Stratus server. The first year of hardware support and maintenance for the Stratus server ended on March 31, 2005. The final phase of the new CAD system was completed and implemented on June 1, 2005. The complete new CAD system is now up and operational 24 hours a day / 7 days a week.

The Stratus server is one of the most critical hardware components of the CAD system since it holds the main database that supports the system. The CAD system would be severely impacted if the Stratus server went out of service for any extended period of time. The invoice for the annual hardware and maintenance fee for the Stratus server has just been received by the Information Services Department. Staff recommends payment for the annual hardware support and maintenance fee for the Stratus server to TriTech Software Systems. Funding for the maintenance fee has already been approved in the Information Services operational budget for Fiscal Year 2004/05. No additional funding is required for this request.

Approval of the annual hardware support and maintenance fee of \$10,621 to TriTech Software Systems will provide continued support of the Stratus server and the CAD system through March 31, 2006.

Recommendation: Authorize the City Manager to approve payment of \$10,621 the annual hardware support and maintenance fee to TriTech Software Systems for the Stratus server through March 31, 2006.

- * 20. **Approval of Payment to the Milpitas Unified School District – Use of Milpitas High School Swimming Pools, Summer 2005 (Staff Contact: Aaron Bueno, 586-3226)**

Background: Each summer, Recreation Services rents and utilizes the Milpitas High School swimming pools for City-sponsored swim lessons, Milpitas Tidal Waves swim team practice, Water Polo Camp, and S.C.U.B.A. certification classes. Recreation Services will rent the pools from July 1, 2005 through August 18, 2005.

Over the course of the summer, the Milpitas High School pools are utilized 47 days in which the City is charged a daily rate of \$200.00. Approval of payment is requested to the Milpitas Unified School District for the 2005 summer pool rental in an amount not-to-exceed \$9,500. Funds were approved by the City Council during the 2005-2006 budget hearing and are available from the Recreation Services Department operating budget for this purpose.

Recommendation: Approve payment to the Milpitas Unified School District in the amount not-to-exceed \$9,500.00 for rental of the Milpitas High School pools for the 2005-2006 summer season.

- * 21. **Authorize the City Manager to Execute an Agreement Amendment: Raines, Melton & Carella, Inc, Sewer Deficiency and Structural Correction Program (Project No. 6073) (Staff Contact: Doug DeVries, 586-3313)**

Background: The Sewer Deficiency Correction Program (Project #6073) is included in the current Capital Improvement Program (CIP). On November 16, 2004, City Council awarded a consultant contract to Raines, Melton & Carella, Inc. to provide engineering services including field survey, hydraulic analysis and to develop plans and specifications for rehabilitation work of sewer pipelines at critical locations throughout the City. Staff recommends that Raines, Melton & Carella, Inc perform additional engineering services to develop plans and specifications for sewer rehabilitation at four additional critical locations. These additional locations are deficient and require frequent maintenance. RMC would also perform a field survey at these locations, and geotechnical investigation of all the proposed sewer rehabilitation locations. After construction completion, this project will reduce the weekly and monthly maintenance and operational costs at these locations.

Staff has negotiated a fee not to exceed \$61,530, which is considered reasonable for the scope of work. There are sufficient funds in the project budget.

Recommendation: Authorize the City Manager to execute the agreement amendment with Raines, Melton & Carella, Inc, in the amount of \$61,530, subject to approval as to form by the City Attorney.

* **22. Authorize the City Engineer to Execute a Contract Change Order: 2005 Street Resurfacing Project, Project No. 4223, (Staff Contact: Doug De Vries, 586-3313)**

Background: The City Council awarded this project to Interstate Grading and Paving, Inc. on April 19, 2005, for \$548,398, and the construction work is underway. The completed project will provide new pavement for various City streets, and the anticipated completion date is August 2005.

Staff recommends that additional paving work be added to this construction contract. This work would involve reconstruction of Sonoma Drive and Mt. Shasta Avenue between Park Victoria Drive and Sonoma Drive, due to the accelerated deterioration. Staff has negotiated a fee not to exceed \$75,000 with the Contractor for this additional work. Staff recommends approval of a contract change order for this additional work. The costs are considered reasonable and sufficient funds are available in the project budget for this change order.

Recommendation: Authorize the City Engineer to execute the Contract Change Order with Interstate Grading and Paving, Inc. in an amount not to exceed \$75,000, for additional paving work.

* **23. Award Bid For Storage Containers, Project 6079 (Staff Contact: Chris Schroeder, 586-3161)**

Background: Staff issued requests for proposals for Purchasing's bidders list to move two (2) existing shipping containers and provide three (3) new 8 X 20 shipping containers with skylights and high security locks and vents as part of the Main Sewage Pump Station project. These containers are to be used for Public Works Maintenance and Operations, until the permanent facility is constructed. All three vendors responded. The following is the recap of the bids received including tax and delivery:

<u>Bidder</u>	
Mobile Mini	\$13,333.71
Container USA	\$10,642.75
American Portable	\$10,364.96

The Engineer's Estimate was \$9,800. The lowest responsive bid was received from American Portable for \$10,364.96, which is within 10% of the Engineer's Estimate. Sufficient funds are available in the Main Sewer Pump Station Project No. 6079.

Recommendation: Award the contract for storage containers at the Main Sewer Pump Station to American Portable in the amount of \$10,364.96.

*** 24. Award Bid For UPS Batteries (Staff Contact: Chris Schroeder, 586-3161)**

Background: Staff sent bids to eight vendors on Purchasing's bidders list to remove and replace ninety (90) NSB-12-475 FR, 134.8 amp batteries for the Liebert Uninterruptible Power Supplies Model #UDA 63125C25DT03 for the Police Department Dispatch Center. All eight vendors responded. The following is the recap of the bids received including tax and delivery:

<u>Bidder</u>	
Ambro, Inc.	\$29,602.28
Battery Systems, Inc.	\$25,544.52
Critical Systems	\$24,723.27
Elesco	\$23,576.76
US Power, Inc.	<u>\$22,154.10</u>
VASA	\$21,647.14
Powerlink	\$20,587.93
Storage Battery	\$19,432.32

(There are sufficient funds in Public Works Facilities Maintenance operating budget for this purchase.)

US Power, Inc. is the only company that bid the exact US made battery specified. Past attempts to use lower cost or foreign made batteries have not been successful. Also, installation of the batteries is critical. US Power, Inc. will be the installer unlike some of the other companies who would use third party installers. Staff requests that the award be made to US Power, Inc. under Municipal Code Section I-2-4.02 "Justification for Acceptance of a High Bid".

Recommendation: Award the bid for UPS Batteries to US Power, Inc. in the amount of \$22,154.10.

*** 25. Authorize Issuance of Purchase Order: Constructware Solutions Group License Renewal, Project Nos. 8154 and 8162 (Staff Contact: Mark Rogge, 586-3403)**

Background: Staff is seeking authorization for the issuance of a Purchase Order in the amount of \$15,000 for the annual renewal of Constructware Software Licenses. Constructware is project management software that is currently in use for the management of several of the large Midtown Projects including the library.

Staff has negotiated the fees for these services for the fiscal year 2005/2006 in the amount not to exceed \$15,000, which is considered reasonable for the work. There are sufficient funds in the project budget(s) to cover this additional expense.

Recommendation: Authorize staff to execute a purchase order with Constructware Solutions Group, in the amount not to exceed \$15,000.00, subject to approval as to form by the City Attorney.

*** 26. Approve Renewal for Excess Workers' Compensation Insurance (Staff Contact: Carmen Valdez, 586-3086)**

Background: The City carries excess workers' compensation insurance in accordance with state law. Our insurance broker, Brown & Brown of California was able to obtain coverage through Ace American Insurance Company for fiscal year 2005-06. Last year fiscal year 2004-05 the cost of the excess workers' compensation was \$210,662. This year staff was quoted an overall rate decrease of 4%. The City's self-insured retention is \$1,000,000 for safety employees and \$750,000 for miscellaneous employees. The renewal premium for fiscal year 2005-06 is \$202,579 and is based on the City's payroll.

Recommendation: Approve acceptance of ACE Insurance Company for the City's excess workers' compensation insurance for FY 2005-06, authorizing the Interim City Manager to pay Brown & Brown of California the premium rate of \$202,579.

* 27. **Approve Specifications and Authorize the Advertisement for Bid Proposals: Police Evidence Freezer, Project No. 8159. (Staff Contact: Jorge Bermudez, 586-3404)**

Background: This project is included in the current Capital Improvement Program and provides for a new walk-in evidence freezer for the purpose of preserving biological evidence for the Milpitas Police Department. Specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). Recent law changes now require special handling and storage requirements for longer periods of time. The evidence freezer will be located in the basement of the police building within their property evidence room and will provide additional storage capacity. The project includes modifications to the building electrical system, shelving, the freezer unit, access ramp, and temperature and fire security controls system. The Engineers Estimate for the work is approximately \$110,000, and funds are available in the project budget. A copy of the contract document cover sheet is included in the Council's agenda packets. Complete specifications are available for review in the office of the City Engineer.

Recommendation: Approve Specifications and Authorize for advertisement for bid proposals for construction of the new Police evidence freezer.

* 28. **Approve Right of Way Use Agreement with NextG Networks, Inc., Project 2413 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: City staff has negotiated an agreement with NextG Networks, Inc., for the placement of antenna units on City light poles. NextG offers cellular telephone companies the ability to close coverage gap without the telephone company having to construct its own antenna facilities and is regulated by Federal communications Commission and the California Public Utilities Commission. NextG recently concluded similar agreements with the Town of Atherton and Town of Danville which staff has used as a basis for negotiations. The terms of the agreement provide for an annual pole fee and a fee based on NextG revenues in Milpitas. The agreement has been prepared for Council consideration and approval

Recommendation: Authorize the City Manager to execute the Agreement, subject to approval as to form by the City Attorney.

* 29. **Authorize City Manager to Execute Contract Agreement with Wildlife Center of Silicon Valley for Animal Control Services. (Staff Contact: Felix Reliford, 586-3071)**

Background: Since the establishment of the previous cost sharing agreement in October 1993, the cities within Santa Clara County have received animal wildlife services free of charge from the Wildlife Center of Silicon Valley (WCSV). Wildlife animals were dropped off at the Humane Society and held until the Wildlife Center staff transports them to their center for care and treatment. The animals are then released back into the wild.

Because of the lack of funding, the Wildlife Center of Silicon Valley Board of Directors decided several years ago (effective September 1, 1999), to eliminate free services to those cities that have chosen not to pay for them. Contracts from cities represent only 17% of the WCSV budget; the balance of is obtained from grants, memberships and fundraising venues.

Each city is bearing their proportionate share of the cost of the rehabilitation services. The Wildlife Center received over 200 animals from Milpitas residents in the past year. The total cost of these services has not changed from last year: \$6,336

Included in the Council's agenda packet are the contract agreement and a letter from the Wildlife Center of Silicon Valley.

Recommendation: Authorize the City Manager to execute a contract agreement with Wildlife Center of Silicon Valley to provide wildlife services in the amount not-to-exceed \$6,336, subject to approval as to form by the City Attorney.

- * **30. Authorize the City Manager to Execute The Agreement Amendment: Group 4 Architecture Research + Planning, Inc., Library Project No. 8162, (Staff Contact: Mark Rogge, 586-3403)**

Background: On August 9, 2004, the City Council awarded a consultant contract to Group 4 Architecture Research + Planning, Inc. for design of the new library which incorporates the renovation of the old historic Milpitas grammar school on North Main Street. Group 4 is currently underway with the Design Development phase of the project.

Staff now proposes to amend Group 4's agreement to include the additional premium costs for the expansion of Group 4's professional liability insurance to three million dollars until the year 2010. This will provide coverage through design and construction, and will include tail coverage after the library opens, which is considered appropriate for a project of this scale. The premium cost for this additional coverage is not to exceed \$83,000.00. This professional liability coverage was not included initially because the City was considering an Owner Controlled Insurance Policy (OCIP.) Upon further research the City's projects are not large enough to realize savings from an OCIP.

Staff also proposes to amend the agreement to include additional project design coordination between the library project and the Midtown East parking garage project due to their close proximity. This additional design coordination effort is not in the current scope of work and is an additional service that is needed to ensure the designs for both projects complement each other and work together. The fee for this work will not exceed \$81,000.00. Funds are available in the project budget for this amendment.

Recommendation: Authorize the City Manager to execute the agreement amendment with Group 4 Architecture Research + Planning Inc. in the amount not to exceed \$164,000.00 subject to approval as to form by the City Attorney.

- * **31. Approve Specifications and Authorize the Advertisement for Bid Proposals: Tot Lot Sunshade, Project No. 8102. (Staff Contact: Jorge Bermudez, 586-3404)**

Background: This project provides for a new sunshade over the tot lot area and play structure for the Community Center Day Care Facility and is included in the Community Center Renovations, Project No. 8102. The bid documents and specifications for the subject project have been completed. The Engineers estimate for the work is approximately \$50,000, and funds are available in the project budget. A copy of the contract document cover sheet is included in the Council's agenda packets. Complete specifications are available for review in the office of the City Engineer.

Recommendation: Approve Specifications and Authorize for advertisement for bid proposals for construction of the new Shade Structure for the Community Center Day Care Facility.

- * 32. **Approve Right of Way Agreement with California Department of Water Resources to Operate and Maintain its Transmission Water Line within Piedmont Road: Project No. 3174 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: California Department of Water Resources is requesting to enter into a Right of Way Agreement with the City to maintain, replace and repair a portion of their transmission water line recently constructed within Piedmont Road (between Pinard Road and Landess Avenue).

Recommendation: Approve Right of Way Agreement with California Department of Water Resources to operate and maintain its Transmission Water Line within Piedmont Road and authorize the City Engineer to execute the agreement, subject to the approval of City Attorney as to form.

XXI. CLAIMS AND DEMANDS

- * 33. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$5,541.91 to Data 911 Systems for the repair and upgrade of two Police Mobile Data Systems. The work was performed as an emergency pursuant to section I-2-5.04 of the Municipal Code "Emergency Authority of Purchasing Agent". (Funds are available from Public Works Department Operating Budget for these services.)
2. \$16,554.00 to the U.S. Postal service for the annual replenishment of postage meter funds for the City's outgoing metered mail for the Purchasing Division. (Funds are available in the current year Finance department operating budget for this purchase.)

Recommendation: Approve the purchase requests.

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JULY 5, 2005, AT 7:00 P.M.**